

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
NOVEMBER 20, 2023**

Mr. Sullivan called the Regular Meeting of the Planning Board to order at 7:39 P.M.

Adequate notice of the meetings of the Planning Board of the Township of Chatham was given as required by the Open Public Meetings Act as follows: Notice in the form of a Resolution setting forth the schedule of meetings for the year 2023, and January, 2024 was published in the *Chatham Courier* and the *Morris County Daily Record*, a copy was filed with the Municipal Clerk and a copy was placed on the bulletin board in the main hallway of the Municipal Building.

Roll Call

Answering present to the roll call were Mr. Sullivan, Mr. Miller, Mr. Choi, Mr. Kahn and Mr. Nikolopoulos.

Mr. Duemling, Mrs. Felice, Mr. Shehady and Mr. Neibert were absent.

Also present were Board Attorney Steve Warner and Board Planner Frank Banisch.

Minutes

Mr. Miller moved to approve the minutes of the October 16, 2023 meeting. Mr. Kahn seconded the motion which carried unanimously. Mr. Nikolopoulos abstained.

Resolution

**RESOLUTION PB-23-017
RESOLUTION GRANTING EXTENSION OF TIME
NOUVELLE HOUSING SOLUTIONS, LLC
Block 62, Lots 70 & 71
482 & 490 River Road, Chatham, New Jersey
Case No. PBA-22-007**

WHEREAS, NOUVELLE HOUSING SOLUTIONS, LLC (the "Applicant") has applied to the Planning Board of the Township of Chatham (the "Board") for an extension of the time permitted to record the deed of subdivision, in accordance with the conditions set forth in the Board's Resolution dated November 14, 2022, granting the Applicant minor subdivision approval with associated variance relief (the "Approval"), pertaining to property identified on the Official Tax Map of the Township of Chatham as Block 62, Lots 70 & 71, more commonly known as 482 & 490 River Road in the Township; and

WHEREAS, the initial 190-day period for filing a minor subdivision plat or deed pursuant to N.J.S.A. 40:55D-47 would have expired on May 23, 2023 and the Applicant, by way of a letter to the Board dated April 21, 2023, requested an extension of the Approval to allow additional time to perfect the subdivision deed, citing issues related to unforeseen expenses and cooperation with the Township of Chatham in covering certain construction costs; and

WHEREAS, the Board, on May 1, 2023, granted the Applicant a six (6) month extension to record the subdivision deed, such that recordation was to be effectuated on or before November 23, 2023; and

WHEREAS, the Applicant, by way of a letter to the Board dated October 31, 2023, requested an additional extension of time to perfect the subdivision deed, indicating that the issues cited in its April 23, 2023, letter have yet to be resolved; and

WHEREAS, an applicant may, pursuant to N.J.S.A. 40:55D-47(f), apply for an extension of time to file a subdivision plat or deed either before, or after, what would otherwise be the expiration date; and

WHEREAS, the Board finds the Applicant has demonstrated good cause, pursuant to N.J.S.A. 40:55D-47(f), to warrant the Board granting an additional extension of the 190-day time period to perfect, as the Applicant has demonstrated that: (1) it was barred or prevented, directly or indirectly, from filing due to delays related to increased stormwater management costs for the subdivision; and (2) the Applicant promptly sought and diligently pursued all outside approvals; and

WHEREAS, the Board further recognizes that the Applicant will need additional time to file the subdivision deed and that an additional 190-day extension from the expiration date would be reasonable and appropriate under the circumstances;

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Township of Chatham, on this 20th day of November, 2023, that the Applicant's request to amend the resolution dated November 14, 2022, to permit additional time (six (6) months from the date of expiration) to record the minor subdivision deed is hereby granted, nunc pro tunc if necessary, such that recordation must be effectuated on or before May 23, 2024, with such extension to be subject to all of the same conditions as are set forth in the Board's prior resolution of Approval, dated November 14, 2022, to the extent same are not inconsistent herewith.

Mr. Warner provided an overview of and background on the resolution. He said that it is the second 6-month extension for filing of the subdivision. Mr. Warner noted the causes of the delay are budgetary.

Mr. Miller moved to adopt the resolution. Mr. Kahn seconded the motion.

Roll Call: Mr. Sullivan, Aye; Mr. Duemling, Absent; Mr. Miller, Aye; Mrs. Felice, Absent; Mr. Shehady, Absent; Mr. Choi, Aye; Mr. Kahn, Aye; Mr. Nikolopoulos, Aye; Mr. Neibert, Absent.

Discussion

2024 Meeting Dates

Mr. Sullivan said that the proposed dates are reasonable. Mr. LaConte noted that the schedule will be approved at the Reorganization Meeting in January.

Land Use Discussion

A draft memo prepared by Mr. Banisch discussing some proposed changes to the Township Code was reviewed. Mr. Banisch addressed half-stories, flat roof regulations and pitched roofs.

Mr. Warner addressed the thought of having a blanket prohibition on flat roofs, and said that while it could be legally supported since aesthetic considerations are a valid zoning purpose under Section 2(c) of the MLUL, it would be more prudent to narrowly tailor the ordinance to address the detriments associated with flat roofs on larger structures rather than simply adopt a blanket prohibition of all flat roofs. Mr. Miller asked if there is a standard for pitched roofs. Mr. Banisch said that technically any pitch qualifies as a pitched roof. Roof requirements were further discussed.

Mr. Banisch addressed the definition of garages. Mr. Choi asked about single-story structures with flat roofs that are 18 feet high. Mr. Banisch said that pitched roofs come into play when there is a half-story. The size of garages and the potential for living space was discussed.

Mr. Warner noted that the definition of a garage should be consistent in all zones and asked what the Board wants to see changed. Mr. Sullivan said that the Zoning Board might be more willing to approve a variance for the R-1 Zone.

Mr. Choi said that generous side yard setbacks are an issue especially with structures that are 18 feet tall, and Mr. Warner noted that such as a valid concern when modest accessory building setbacks are applied to large accessory structures, like 500 square feet detached garages

Mr. Banisch noted that prohibiting bathrooms in accessory garages would help prevent them from being converted to living space. He said he will draft a memo for the Board to review before it is sent to the Township Committee.

Setbacks for accessory structures were discussed. Mr. Banisch proposed that there be a 5 foot setback for buildings smaller than 150 square feet, and a 10 foot setback for buildings larger than 150 square feet.

Mr. Sullivan asked if the memorandum to be prepared by Mr. Banisch can be distributed for comment or if it needs to be discussed at a full meeting. Mr. Banisch welcomed members to email him comments. Mr. LaConte said that anyone sending responses should send them only to Mr. Banisch to avoid creating an unnoticed meeting by email.

Mr. Warner said that the Township Committee can consider introducing an ordinance based on the recommendations, following which there would be a Master Plan consistency review by the Planning Board and the Township Committee could adopt the ordinance at Second Reading after public hearing.

The December meetings are scheduled for the 4th and 18th. Mr. Sullivan asked if it is worth further discussing this topic at either of those meetings. It was decided to wait until January to further discuss the topic, provided that any more discussion is deemed necessary. Mr. LaConte noted that any discussion by the Township Committee would not occur until January at the earliest.

Mr. Miller moved to adjourn at 8:38 PM. Mr. Sullivan seconded the motion which carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary